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Summary  
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[1](#)1. (SBU) Summary: During the December 13 investment session of the third SED, both sides agreed that increased Chinese investment in the United States would strengthen bilateral ties. Chinese officials expressed frustration over how the Committee on Foreign Investment in the United States (CFIUS) evaluates the national security implications of inward investment. United States officials complained about the limitations China imposes on foreign investment in some sectors and the vague criteria with which China screens inward investment. Treasury Secretary Henry Paulson said the United States welcomes investment from abroad, including from countries that do not offer reciprocal investment access, like China. The United States and China agreed to establish a sustained senior-level dialogue on investment policies, practices, and climates and to intensify ongoing talks on a bilateral investment agreement, noting the talks to date had proven valuable in helping the two sides understand each others investment regimes. End Summary.

Paulson: U.S. Open to Foreign Investment  
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[1](#)2. (SBU) During the December 13 discussion on advancing bilateral investment, Treasury Secretary Henry Paulson said the United States was open to inward investment in all but a few sectors. United States Trade Representative (USTR) Susan Schwab noted the U.S. open investment policy had led to a surge in foreign investment in the United States, which had provided jobs that paid more than the national average and contributed to exports. According to Schwab, investment between the United States and China was less than one would expect and smaller than cross border investments between the United States and its other major



trading partners.

13. (SBU) Commerce Vice Minister Chen Deming agreed that Chinese investment in the United States was small and needed to grow. Chinese firms wanted to invest in the United States, but progress had not been smooth. He said China hoped to see the United States implement a plan to attract investment, which could guarantee national treatment, streamline the review of mergers and acquisitions, and improve transparency.

14. (SBU) National Development and Reform Commission (NDRC) Vice Chairman Zhang Xiaoqiang agreed that expanded investment promoted and deepened bilateral cooperation. But two-way investment remained modest. Chinese and U.S. firms had a strong interest in expanding investment, especially in chemicals, transport, electricity, energy, environmental protection, and modern services. China, Zhang said, was interested in more cooperation.

15. (SBU) Commerce Secretary Carlos Gutierrez noted that all United States governors and mayors were looking to attract inward investment. More Chinese investment in the United States would go a long way in strengthening the bilateral relationship. When the average American thought of China, they thought of jobs going overseas, with no examples of Chinese firms creating jobs in the United States. Gutierrez urged China to consider the long-term benefits of becoming a major investor in the United States.

China: CIFIUS Process Not Clear

16. (SBU) Chen said China was concerned about how the

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Committee on Foreign Investment in the United States (CFIUS) screens potential investments. Chen said the CFIUS process did not offer a clear definition of national security, which has led to misgivings in the Chinese business community about investment in the United States. In the Joint Commission on Commerce and Trade (JCCT) session that preceded the SED, the United States had expressed a readiness to come up with a clearer definition, he said, which China welcomed.

17. (SBU) Secretary Paulson said CFIUS screens foreign investment for national security risks only, and there were no exceptions limiting investment in so-called strategic industries or to protect national champions. Congress passed the Foreign Investment and National Security Act of 2007 (FINSIA) to clarify the CFIUS screening process and increase transparency. Among the 150 or so transactions CFIUS had screened during Paulson's tenure, almost all had closed without controversy. USTR Schwab reiterated that CFIUS reviews were narrow in scope, and the United States maintained limited restrictions on foreign ownership in only a few sectors.

U.S. Biased Against State Owned Enterprises?

18. (SBU) People's Bank of China Governor Zhou Xiaochuan noted that many Chinese firms that were formerly state-owned had now been privatized and listed. The state often remained a shareholder, but there were other investment partners as well. Zhou said these companies had to consider the interests of all their shareholders and could not simply take directions from the state. He commented that apart from the China Investment Corporation, all the Chinese firms that were strong enough to make investments overseas were private.

9 (SBU) In order to facilitate bilateral investment, Vice Chairman Zhang proposed establishing an information sharing system on major investments. The two countries could



designate agencies and departments to inform each other of changes in laws and regulations and major investment areas and give feedback to relevant enterprises and associations. China also wanted to increase dialogue so that each side could brief the other on their latest laws and regulations and their implementation. China wanted the United States to provide a clearer definition of Qnational security. China was also trying to simplify approval procedures and encouraged competent, reputable Chinese firms to cooperate with foreign partners.

#### Bilateral Investment Treaty

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¶10. (SBU) Vice Minister Chen said talks about the possibility of negotiating a bilateral investment treaty had been positive, and China planned to send a delegation to the United States in January 2008 to continue these discussions. But, Chen noted, there were obstacles to overcome. China hopes the United States will not discriminate against firms simply because they may be state-owned. No matter who owns the firms that seek to invest in the United States, they all would have to follow U.S. laws. As Chinese firms had matured and as ChinaQs foreign exchange reserves had grown, the United States would become a key destination for ChinaQs outbound investment.

¶11. (SBU) USTR Schwab said an agreement would provide meaningful legal protections to investors from both countries while also signaling a commitment to an open global economy. However, there were key differences in approaches to investment treaties, including ChinaQs requirement for an affirmative approval for all new investments compared to the United StatesQ pre-establishment right to invest, subject to limited explicit exceptions. The United States also prohibited measures that discriminated against foreign investors, subject to limited, explicit exceptions, whereas China exempted all existing discriminatory measures. For next steps, the two sides would broaden and intensify their discussions by

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focusing on national treatment and other obligations and undertake frequent and intensive expert-level discussions on fundamental investment protections.

#### China Committed to Opening Up and Reform

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¶12. (SBU) Chen said China was committed to opening up and reform, as Vice Premier Wi Yi had reaffirmed earlier in the SED. A reversal, Chen said, would lead to a Qblind alley. To improve the environment for foreign investment, China had strengthened intellectual property rights (IPR) protection, improved laws and regulations, and increased transparency by unifying tax rates and publishing a new investment catalogue. China allowed investment in all 22 categories of manufacturing and 100 service sectors that it had committed to open in its WTO accession agreement.

¶13. (SBU) Chen commented that the United States was one of the largest sources of foreign investment in China and U.S. companies had benefited from expanded market access in China. The China operations of U.S. firms employed 2.2 million people, boasted revenue of \$120 billion in 2006, and generated \$10 billion in profits, or a 17 percent return on investment, he noted. China also benefited from the advanced technology, managerial expertise, and jobs that U.S. investment delivered.

#### ChinaQs Investment Catalogue

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¶14. (SBU) Before publishing the new investment catalogue, China had solicited the views of foreign firms, according



to Chen. The catalogue's guiding principle was to expand foreign investment, and China welcomed further discussion about the catalogue. China also passed an anti-monopoly law that protects IPR and covers all enterprises, including state-owned monopolies. China was aware the U.S. had concerns about these issues, and was ready for in-depth discussions in fields of interest.

¶15. (SBU) USTR Schwab said China had heightened uncertainty among foreign investors by relying on the expansive and vague concept of national economic security to screen inward investment, noting the State-owned Assets Supervision and Administration Commission of the State Council (SASAC) had released a Guiding Opinion in December 2006 calling for greater state control in important industries and key sectors. Moreover, the Foreign Investment Catalogue had been issued without an opportunity for public comment. Provisions of the August 2007 Anti-monopoly law also could be used to shield state-owned firms from foreign competition and authorize competition decisions that actually promoted macro-economic goals.

¶16. (SBU) Despite these concerns, Schwab said the United States and China had made progress discussing investment issues in the SED. The United States was pleased that China had agreed to its proposal to establish a bilateral forum on investment policies, practices, and climates.

#### Sovereign Wealth Funds

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¶17. (SBU) Secretary Paulson noted there were philosophical differences about sovereign wealth funds (SWF). Some people thought that allowing SWFs to buy assets in countries that had earlier privatized them would essentially undo the privatization. This line of thinking did not represent the United States government's view. If SWFs could agree on best practices, it would help members of the Organization for Economic Cooperation and Development (OECD) to agree on principles, which would help ensure their markets remained open.

¶18. (SBU) Chinese Foreign Minister Yang Jiechi noted that SWFs had existed for a number of years. The United States needed a policy to deal with this; otherwise, the situation would become more serious for the United States. Yang noted that American firms appeared to feel no reservations

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partnering with Chinese state-owned firms when they invested in China. Why then was there suspicion if the same U.S. firms wanted to partner with a Chinese SOE in the United States, he asked. Yang added that U.S. governors all sought Chinese investment, and said China would like the CFIUS examination to take into account the 50 states' ideas and needs, instead of considering unnecessary elements.

¶19. (SBU) Secretary Paulson replied that the United States had been open to investments from SWFs for a long time. The United States' biggest concern was that European nations were not necessarily open to SWF investment. CFIUS legislation maintained that the United States would remain open to investment, even in the case of SWFs and SOEs. Paulson noted that other countries sometimes said they needed a review similar to CFIUS, but in reality sought to screen investments in strategic industries.

#### Conclusion

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¶20. (SBU) Secretary Paulson closed the discussion by noting that the quality of views exchanged in the session showed that there was no doubt about the importance of the high-level dialogue on investment to which both sides had agreed.



The United States would like to see limits on investment lifted and China was seeking more clarity on U.S. regulations. Paulson said this was not the first time he had heard China ask for a Qroadmap,Q to help avoid misunderstandings.

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